

REMARKS

Reconsideration of the application in view of the above amendments and the following remarks is requested. Claims 2-10, 19-20, 23, 25, and 28-34 are in this application. Claims 1, 11-18, 21-22, 24, and 26-27 have been cancelled. Claims 2, 5, 10, 19, 23, and 25 have been amended. Claims 29-34 have been added to alternatively claim the present invention.

The Examiner objected to the specification because the specification does not provide a Background of the Invention and a Brief Summary of the Invention. With respect to the Brief Summary of the Invention, the Examiner cited MPEP §608.01(d) which, in turn, cites 37 CFR §1.73. Applicant notes, however, that 37 CFR §1.73 states "a brief summary of the invention . . . should precede the detail description." Since the operative word in this instance is "should" (as opposed to shall or must), there does not appear to be any requirement that a Summary of the Invention section must be included within a patent application.

With respect to the Background of the Invention, the Examiner cited MPEP §608.01(c) which, in turn, states that the "specification should set forth the Background of the Invention in two parts." Further, applicant can find nothing within 37 CFR §1.71 which requires that a Background of the Invention section must be included within a patent application. Thus, from what applicant can determine, there is no requirement to include a Background of the Invention or a Summary of the Invention within a patent application. As a result, applicant has opted to omit these sections.

The Examiner rejected claims 1 and 21 under 35 U.S.C. §102(e) as being anticipated by Kolachina et al. (U.S. Patent Publication No. 20050012512). The Examiner also rejected claims 1 and 21 under 35 U.S.C. §102(b) as being anticipated by, or in the alternative, under U.S.C. §103(a) as obvious over Sakiyama et al. (U.S. Patent Publication No. 20020079591). The Examiner further rejected claims 1 and 21 under 35 U.S.C. §102(b) as being anticipated by, or in the alternative, under

U.S.C. §103(a) as obvious over Chandler (U.S. Patent No. 6,211,527). As noted above, claims 1 and 21 have been cancelled.

The Examiner objected to claims 2, 19, and 22, and their respective dependent claims, but indicated that these claims would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Claim 2 has been rewritten to be in independent form, and has also been amended to eliminate an element and provide additional clarity. The additional amendments to claim 2 are not expected to effect the Examiner's reason for allowance. Claim 5 has been amended to change claim dependency. Claim 10 has also been amended to provide additional clarity.

Claim 19 has been rewritten to be in independent form, and has also been amended to eliminate an element and provide additional clarity. The additional amendments to claim 19 are not expected to effect the Examiner's reason for allowance. Claim 23 has been rewritten to be in independent form, and has also been amended to eliminate an element and provide additional clarity. The additional amendments to claim 23 are not expected to effect the Examiner's reason for allowance. Claim 25 was amended to change claim dependency.

New claim 29, which recites a test device that includes a region of silicon, is patentable over the cited art for the same reasons that the Examiner indicated that claim 2 is patentable. In addition, claims 30-34, which directly or indirectly depend from claim 29, are patentable for the same reasons as claim 29.

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Thus, for the foregoing reasons, it is submitted that all of the claims are in a condition for allowance. Therefore, the Examiner's early re-examination and reconsideration are respectively requested.

Respectfully submitted,

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RESPONSE TO OFFICE  
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